

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FINANCE

Call to Order: By **CHAIRMAN BOB KEENAN**, on April 6, 2001 at 8:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Bob Keenan, Chairman (R)
Sen. Ken Miller, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. John Cobb (R)
Sen. William Crismore (R)
Sen. Greg Jergeson (D)
Sen. Royal Johnson (R)
Sen. Bea McCarthy (D)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Bill Tash (R)
Sen. Jon Tester (D)
Sen. Mignon Waterman (D)
Sen. Jack Wells (R)
Sen. Tom Zook (R)

Members Excused:

Sen. Chris Christiaens (D)
Sen. Corey Stapleton (R)

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Jon Moe, Legislative Fiscal Division

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 577, 4/7/2001; HB 226,
4/7/2001; HB 516, 4/7/2001; HB
637, 4/7/2001; HB 598,
4/7/2001

Executive Action: HB 5; HB 140; HB 516; HB 577;
HB 598; HB 610; HB 637; HB 273

HEARING ON HB 577

Sponsor: REP. MATT MCCANN, HD92, Harlem

Proponents: Larry Fasbender, Deputy Director, Department of Justice
Steve Turkowitz, Executive Vice-President, Montana Auto Dealers Association
Robert Throssell, Montana County Treasurers Association

Opponents: None

Opening Statement by Sponsor:

REP. MATT MCCANN, HD92, Harlem, opened on HB 577, a bill funding information technology systems for the Department of Justice. The bill was by request of the Joint Appropriations Subcommittee on Long Range Planning. The bill would allow the Department of Justice to borrow from the State Board of Investments to build one part of a three component computer system for the Motor Vehicle Division. He advised the current system was a Cobol based system that was outdated. The loan would be repaid from lien filing fees. The bill would also authorize the acquisition of video gambling automated accounting and reporting system data collection units for the Gambling Control Division. The debt service would be paid back from within the base budget of the division.

Proponents' Testimony:

Larry Fasbender, Deputy Director, Department of Justice, advised the legislation to upgrade their computer system. It was being approached on a piecemeal basis. He said there was an opportunity to learn from the mistakes of other agencies. There would be an advisory council of mostly legislators. He noted there would be no impact on the general fund; there would be from a \$4 lien filing fee collected by banks and credit unions that would be used to pay off the loan borrowed from the Board of Investments.

Steve Turkowitz, Executive Vice-President, Montana Auto Dealers Association, supported HB 577 on behalf of the association.

Robert Throssell, Montana County Treasurers Association, spoke in support of HB 577. He advised the implementation of the system for motor vehicle title and registration and drivers license records would greatly assist county treasurers in their duties.

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

SEN. JON TESTER noted that when the bill was first heard in the Long Range Planning Committee, there were three components and now it had been reduced to one. He asked if the department was confident about software compatibility when they try to implement the other two components. **Mr. Fasbender** said he was confident. Registration and drivers licensing would be done at a later date. He said the hardware would not be a difficulty.

SEN. ROYAL JOHNSON asked about the lien fee. **Mr. Fasbender** explained that a lien was filed by a bank or credit union when a car is sold. The lien fee would increase from \$4 to \$8. They met with the banks and credit unions, who preferred the increase on lien filings rather than splitting the increase between filings and releases. **SEN. JOHNSON** asked if the fee would add to the cost to the consumer. **Mr. Fasbender** said it would be passed on to the consumer. **SEN. JOHNSON** asked about the \$1.12 million for the video gaming system and how that would be paid for. **Mr. Fasbender** replied that two years before when the automated accounting and recording system was authorized by the legislature, there was \$380,000 a year established in the DOJ budget that would be used for the system over a five year period. He said the money was still in the base. More people had indicated an interest in getting into the system and the department was trying to accelerate the implementation of the system. They would borrow money to get the system in place over the next couple of years and would use the \$380,000 to pay back the loan. **SEN. JOHNSON** asked where the \$380,000 came from. **Mr. Fasbender** indicated it was appropriated two years before by the legislature and written into HB 2 at that time. It was anticipated that money would become available each year for the next four years to make those payments. He affirmed it was general fund. **SEN. JOHNSON** commented the general fund would pick up the cost of the automation for an industry that does \$.5 billion of business in the state. **Mr. Fasbender** said the state would pick up a portion and a portion would be required of the operators and owners of gambling machines. He said there would be a credit involved that would go back for some of those costs, but the costs would exceed the amount of the credit.

Closing by Sponsor:

REP. MCCANN closed on the bill.

HEARING ON HB 226

Sponsor: REP. KEITH BALES, HD 1, Otter

Proponents: SEN. RIC HOLDEN, SD 1, Glendive
 REP. DAVE KASTEN, HD 99, Brockway
 Alec Hansen, Montana League of Cities and Towns
 Gordon Morris, Montana Association of Counties
 Willy Dufield, Fallon County Commissioner,
 Bill Kennedy, Yellowstone County Commissioner
 Bob Gilbert, City of Colstrip and Rosebud County
 REP. RALPH LENHART, HD2, Glendive
 REP. MONICA LINDEEN, HD 7, Huntley
 Mark Ravine, Richland County Commissioner
 Jim Lockhart, Executive Director, Montana Coal
 Council
 _____ James Deckert, Dawson County Commissioner
 _____ Gayle Ambercrombie, Executive Director, Montana
 Petroleum Association
 _____ John Pretty On Top, Chairman, Bighorn County
 Commission
 _____ Gloria Palidichuk, Richland County Economic
 Development and the City of Glendive
 _____ Richard Dunbar, Phillips County Commissioner
 _____ Joanne Stalling, Rosebud County Commissioner
 _____ Tom Daubert, Lobbyist, Oil, Gas and Coal Counties
 _____ Mike Carlson, Coordinator Northern Plains
 Resource, Conservation and Development Inc.
 _____ John Will, Bighorn County Commissioner

Opponents: None

Opening Statement by Sponsor:

REP. KEITH BALES, HD 1, Otter, opened on HB 226 which would allocate a portion of federal mineral royalties to counties. He said the bill would correct a situation where the federal government distributes 50 percent of the royalties they receive on oil, gas and coal to the state. The law says preference should be given to the sub-entities from which the revenue came. He advised that over the years the state had been retaining that money. He said that when forestry receipts come back, they go to the counties. The bill would in essence do the same thing with mineral monies as with the forestry receipts. The state would

distribute 50 percent back to the counties; half would be a direct payment and half would go into an impact fund. The impact fund would address problems with development coming on line or ending. In the original form of the bill, there would have been a five-year phase-in. In its current form, 25 percent of the money received over the revenue estimate in the next two fiscal years would go to the counties and 25 percent thereafter. He passed out amendment HB022603.agp. **EXHIBIT(fcs78a01)** He explained that the amendment would give the counties the entire amount over the revenue estimate. In FY 2004 and thereafter it would give 100 percent to the counties of anything over \$20 million until it got up to a total of \$40 million. At that time all of the funds would be split 50 percent to the state, 25 percent to the counties and 25 percent to the impact fund.

Proponents' Testimony:

SEN. RIC HOLDEN, SD 1, Glendive, pointed out the seriousness of the issue to the State of Montana. The bill would put guidelines in place for compliance with the direction of the federal government. He handed out a copy of the federal statutes which gave direction to the states on distribution of the royalties.

EXHIBIT(fcs78a02) He noted that the state legislature may give priority to those subdivisions of the state socially or economically impacted by development of minerals. He contended that the state was keeping all of the federal royalty revenues and not specifically giving any priority to those impacted counties. He explained a 1981 ruling from then **Attorney General**

Mike Greely stating that the federal statute was plain and unambiguous and required giving priority to those impacted subdivisions.

EXHIBIT(fcs78a03) **SEN. HOLDEN** presented a document from the Department of Interior in reply to an inquiry from the Custer County Planning Board regarding the question.

EXHIBIT(fcs78a04) The opinion was that the legislature had full authority to the disposition of the revenues but first consideration was to be given to those areas impacted by mineral development. He handed out an explanation of the bill with amendments and a set of amendments (HB022602.agp) for the consideration of the committee.

EXHIBIT(fcs78a05) EXHIBIT(fcs78a06) The bill as amended would provide a five-year phase in with a 25 percent disbursement over and above the projected royalty receipts in FY 2001 and FY 2002 as per the recommendation of the governor. That would give two years to anticipate the impact to the general fund. He noted that timber counties were already receiving what counties were asking to receive from mineral royalties. He said they receive 25 percent of the total dollars that the federal government received from timber sales. He said the plan did not favor just a few counties, but 43 different counties. **{Tape : 1; Side : B}**

The second major proposal in the bill was for the creation of an impact fund controlled by a board appointed by the Governor. An impacted county could then request a grant from the trust fund. He distributed a table of the counties that would benefit.

EXHIBIT (fcs78a07) The impact fund would be broad in nature and could be used for economic development, job creation, infrastructure development or dismantling, and joint ventures with private enterprise. He handed out a letter from the **Wibaux County Commissioners** in support of the bill. **EXHIBIT (fcs78a08)**

REP. DAVE KASTEN, HD 99, Brockway, advised the royalties had been coming in for 50 years. He said the bill was about fairness. Originally there was a \$4.5 million impact to the general fund. He amended the bill in order for the bill to move on. Over the years when the royalties were building, about 75 percent of the dollars coming in were from the eastern third of the state. That part of the state has 17 percent representation. He hoped something could be worked out to be fair to counties.

Alec Hansen, Montana League of Cities and Towns, spoke on behalf of cities and towns in eastern Montana. He indicated those cities and towns were hit by I-105 in 1986. It was an absolute tax freeze as there was no growth in the tax base in eastern Montana. He said HB 226 was a good bill that would return some of the federal mineral royalties to the counties where the money was generated. He supported the impact fund which would make grant money available for cities and towns in eastern Montana. He said there were impacts with economic development in the form of boom and bust cycles. He distributed a letter from the Mayor and City Council of Baker in support of HB 226.

EXHIBIT (fcs78a09)

Gordon Morris, Montana Association of Counties, stated the issue was a high priority of the association. He felt the bill was not just a rural eastern Montanan issue. Forty three counties generate royalty money that comes back to the state. He said it was a fairness issue.

Willy Dufield, Fallon County Commissioner, Chairman Montana Association of Oil, Gas and Coal Counties, supported HB 226 with amendments. He advised over 36 counties had oil and gas or coal production on federal lands and that the production had been occurring for over 50 years. That production provided jobs, diversified the economy and broadened the tax base, but also created negative impacts. Roads and bridges were not often built to withstand heavy truck traffic. When production declined or became nonexistent, the valuation of a county dropped dramatically thus decreasing the value of a mill. HB 226 would return a portion of federal mineral royalties to 42 counties to

assist in providing education, health care, road and bridge maintenance and provide economic opportunities. The impact fund would allow counties, school districts and incorporated cities and towns to apply for grants to help offset impacts.

Bill Kennedy, Yellowstone County Commissioner, affirmed support for HB 226.

Bob Gilbert, City of Colstrip and Rosebud County, noted it was the intention of the federal government that a large portion of the money be used to address the impacts caused by the extraction of minerals on federal land in those areas where it was extracted. He acknowledged that the state needed the money to balance the budget when times were tough but said he had never seen it when times weren't tough. He said the impacts were real and local citizens were carrying the costs through their mill levies to maintain the infrastructure damage caused by federal exploration and extraction of minerals. He urged doing the right thing and sharing the money with counties to address the impacts. He supported the phase-in idea.

REP. RALPH LENHART, HD 2, Glendive, spoke in support of the bill. He advised it was an issue of fairness and was a bill that would help local governments in the impacted areas and would be of great benefit to financially strapped local governments.

REP. MONICA LINDEEN, HD 7, Huntley, stressed the issue of fairness. She noted that **SEN. MACK COLE** supported the bill as well.

Mark Ravine, Richland County Commissioner, stood in support of HB 226. He read a letter of support from Powder River County Commissioners. **EXHIBIT(fcs78a10)**

Jim Lockhart, Executive Director, Montana Coal Council, stated that the coal severance tax had contributed well in excess of \$1 billion dollars over the years. He felt it only fair that impacted counties share in some of that wealth.

James Deckert, Dawson County Commissioner, urged support for HB 226.

Gayle Ambercrombie, Executive Director, Montana Petroleum Association, advised there were two revenue streams from the revenue flows from oil and gas, including production taxes distributed to state and local governments. Royalty owners get 12 percent of the value for owning the minerals. If the royalty owner was a private individual, they also paid taxes which then go to the state and counties. If the 12 percent was owned by the

federal government, part of the royalty went to the state. What was being asked for in the bill was that the federal royalty share be distributed both to the counties and the state.

John Pretty On Top, Chairman, Bighorn County Commission, stated Bighorn County was the biggest coal producing county in the state of Montana and one of the top 100 poorest counties. Unemployment was high. In southern Bighorn County, many coal miners had moved to Wyoming. School Enrollments were down, and funding was being lost. The county was bringing a lot of money into the state, but none of it was coming back. He advised the impacts were great and needed to be addressed. He supported the bill as amended for the people of Bighorn County.

Gloria Palidichuk, Richland County Economic Development and the City of Glendive, cited a lack of growth in Eastern Montana. She reported that the highest mill levies in the state were in Eastern Montana and both from Sheridan County. The highest mill levies for county operations only were Wibaux and Powder River County. She checked a top county for timber receipts and found that they levied no mills in the county general fund, road fund, or bridge fund. She believed the oil and gas counties were entitled to their share of receipts also. While timber was a renewable resource, oil and gas and coal were not. She urged support for the bill and noted that **SEN. WALTER MCNUTT** wanted to go on record in support of the bill.

Richard Dunbar, Phillips County Commissioner, pointed out that in Phillips County, 70 percent or more of the minerals being produced belonged to the federal government. He estimated there were 20,000 producing wells and the impacts would be great. He encouraged support for HB 226 as amended.

{Tape : 2; Side : A}

Joanne Stalling, Rosebud County Commissioner, thought it was fair to share the money with the state and maintained there would be no impact to the general fund for two years. She reasoned that if methane was produced in the next few years, there would not be money for immediate impacts without the passage of the bill. Companies would get a tax holiday for the first twelve months of production, so counties would have no mechanism to get any money for at least the first year. She asked for support for the bill.

Tom Daubert, Lobbyist, Oil and Gas and Coal Counties, advised the revenue available to counties to address impacts had slowly eroded over the years. At a special session years ago, the legislature passed tax incentives for horizontal drilling. The distribution system was changed. Two years ago, when state

revenues were flush and surpluses were predicted, significant tax reductions for the industries were passed, not just affecting state revenue but at the county level. Over time counties have had a more difficult time addressing the accumulated impacts from ongoing development pertaining to those industries. He said the bill did not pertain to existing or past ongoing development. It focused on mineral royalties on federal lands and righting a wrong that was ongoing for a number of years. He cited the federal law directing states to give priority to impacted counties and claimed the amount of money generated on those federal lands from development was about \$500 million. Counties were suffering shortfalls and the inability to address impacts. He felt it would be wise to put a system in place to allow counties to meet the needs of future development. He commented that part of citizen dislike for extractive industries stemmed from the feeling that industries left impacts behind that weren't being covered. In some cases, those industries were taxed all along for the purpose of addressing those impacts. The Resource Indemnity Trust Fund was a prime example. It was intended to clean up old pre-regulatory mining impacts and a great deal of that revenue had not been used for that purpose. He urged consideration of the amendments and passage of the bill.

Mike Carlson, Coordinator Northern Plains Resource, Conservation and Development Inc., informed the committee his organization included 16 counties and was founded in 1990 and provided economic development assistance to 16 counties and soil conservation districts, and 32 towns and cities. He advised of a population loss in eastern Montana. **EXHIBIT(fcs78a11)** Both counties and towns had lost population. HB 226 would help with infrastructure costs from mineral development impacts. With a loss of taxable evaluation, counties were hard pressed to improve roads, bridges, and infrastructure. The economic development trust fund would help counties with economic development projects. He asked for support for the bill.

John Will, Bighorn County Commissioner, asked that counties be treated fairly and be trusted to make decisions that were of benefit to them.

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

SEN. JOHN COBB advised he did not like the Impact Board. He would rather give the money directly. He asked **REP. BALES** about the importance of the Board. He asked if they would just take

the 25 percent. **REP. BALES** felt the Impact Board would be very important. He reasoned that if there was coal and methane development in Powder River County, there would not be any tax back on that development for 18 months. At that point in time there would be an influx of people, impacts and costs to the county. He said that was exactly what the impact fund was for. **SEN. COBB** asked if they wouldn't get 25 percent anyway. **REP. BALES** said it would be delayed. **SEN. COBB** felt the county would not see much of the money from the Impact Board. **REP. BALES** thought it would depend on who was on the board. **SEN. COBB** asked if they only got 25 percent, if they would rather have it directly or would they still want an impact board. He did not believe they would get the 50 percent. **REP. BALES** thought half and half was best. **SEN. COBB** asked if they would take 12.5 percent directly and 12.5 percent for the board.

SEN. LINDA NELSON asked if the fiscal note reflected the bill as amended. **REP. BALES** advised the fiscal note was for the original bill. **SEN. NELSON** asked if the amendments were put on in committee or on the House floor. **REP. BALES** advised they were put on in committee and that a new fiscal note was coming. **SEN. NELSON** asked if the amendments both went on, if there would be a new fiscal note. **REP. BALES** advised the amendments were two different options. **SEN. HOLDEN's** amendment was for 10 percent per year for five years. His amendment would take the increase over the \$20 million.

SEN. GREG JERGESON, asked about the technical notes in the original fiscal note regarding the trust fund. **REP. BALES** indicated that on the new fiscal note, a technical concern that would have to be addressed would be regarding the requirement for the allocation of funds to counties based on each county's proportion of total federal mineral royalties. In many years, the state would receive some federal mineral payments that could not be attributed to a specific county. **SEN. JERGESON** had a concern about PILT payments (payment in lieu of taxes) being reduced if there is an increased distribution of mineral royalties to the counties. He wondered if there was a federal formula for that reduction. **Mr. Duffield** advised North Dakota had passed legislation similar to HB 226. The federal royalty money was put in their general fund which took away the identity of the federal mineral royalty dollars. When the money was distributed back out to the counties, it wouldn't reduce the PILT payments. The formula for reducing PILT payments would be based on population and amount of acres in the county. Every year Montana sends a report to the federal government and tells them how many mineral dollars had been given to the counties and the PILT payment is calculated. If Fallon County received royalty

money, it would lower their PILT payment down to their base of \$12,000. The royalty money wouldn't offset the reduction in the PILT payment. He favored what North Dakota had done in order to avoid affecting PILT payments. **SEN. JERGESON** asked if the bill was currently structured not to affect the PILT payments or if there were ideas to restructure the bill. He asked if grants made to counties by the Impact Board would affect PILT payments.

SEN. TOM ZOOK asked **REP. BALES** about the issue of the Impact Board. He felt the Coal Impact Board had not benefitted the impact areas as much as it could have because of requests coming to the board from some distance away claiming impact and getting funds. It seemed to him that if money went directly to counties, commissioners could make decisions to deal with issues like that. He wondered why **REP. BALES** felt so strongly about the board.

REP. BALES acknowledged there had been some problems with the Coal Impact Board. The money that would go into the impact fund would not affect the PILT grants as it would not be a direct payment to the county. He felt that unless another way could be found to address the impacts of counties, the impact fund was needed. Otherwise money would not be available to counties for impact at start-up. He said he was open to suggestions, but wanted a way of offsetting those impacts. **SEN. ZOOK** asked if the concern was about PILT payments. **REP. BALES** said that was part of it, but there also needed to be a way of addressing impacts until revenue started to come. *{Tape : 2; Side : B}*

SEN. JOHNSON felt HB 226 was an important bill and wondered where it had been since it was first introduced in January. He said he would support the bill no matter how it turned out. He asked **REP. KASTEN** about support for the bill if the payment went directly to the counties rather than sending it to any sort of board. **REP. KASTEN** said he would strongly support it that way. He tended to agree with **SEN. ZOOK**. He was familiar with raids on various funds. **SEN. JOHNSON** thought the money should be sent directly to counties.

SEN. TOM BECK asserted that if the money was sent directly to counties it would affect the PILT payments. He said six counties would be winners, but there would be others that would lose because it would reduce their PILT payment and that would not be offset. He did not want the PILT payment affected. **REP. BALES** thought it could be structured so that it did not affect the PILT payments. If not, counties would still be receiving more money than they were currently from the PILT payments. **SEN. BECK** indicated that would only be some counties. He noted that Congress had directed that timber receipts "shall" be returned to counties, not "may". Mineral royalties "may" be distributed back. One-third of timber receipts were used for roads and

improvements and two-thirds for the schools. He asked if there were figures on what impacts were going to be in Bighorn County. **REP. BALES** said he had not received figures on Bighorn County. He said Powder River County would also be severely impacted if there was additional energy development. He felt the cost to the county would double and it would be difficult for the taxpayers to take up that amount. **SEN. BECK** asked about a possible lawsuit by the counties. **REP. BALES** said a lawsuit was a possibility. He said there was a similar lawsuit in Nevada. **SEN. BECK** asked if there had been no defining litigation. **SEN. HOLDEN** cited the opinion of former **Attorney General Greeley** and the opinion of the Department of Interior. **SEN. BECK** read from the federal statute. He noted the language was "may distribute". He indicated the governor was willing to give 10 percent and that she would probably veto anything more. **SEN. HOLDEN** asserted that if that was the best the governor could do, they would want the bill to be tabled. He cited the fiscal note where the department anticipated that \$20 million would be derived. Ten percent of that would be \$2 million. He felt that amount spread across 43 potential counties would do nothing. **SEN. BECK** hoped the impact fund would not be spent across 43 counties. He felt there would be two or three counties that would get the main impact. **SEN. HOLDEN** wanted to include the possibility for more counties to participate under the bill. He contended that in other states that had settled the issue, there had been no settlements for 10 percent.

SEN. MIGNON WATERMAN asked if any state had lost a lawsuit over the issue. **REP. BALES** answered no. **SEN. WATERMAN** held that the language suggested how the funds be distributed by state legislatures. She did not envision a court reading that language and ruling there was a mandate.

SEN. KEN MILLER wondered why the Education Committee did not oppose the bill. He said Section 20-9-343 required that 100 percent of the receipts be deposited into the general fund State Equalization Aid to Public Schools. He wondered if the money was redistributed, if it would impact the equalization account. **SEN. HOLDEN** noted that in the bill, school districts could apply to the impact board for funding. He had heard no objections through the process. **SEN. MILLER** asked if he was reading right that it would come out of the equalization account and wondered if there was a conflict in law. **SEN. HOLDEN** said the handout was not reflective of the bill, but only an indication of the counties that potentially could benefit by the bill. **Mr. Duffield** did not believe there was a connection between the federal mineral royalties and the equalization account. The federal royalties go into the general fund.

SEN. JERGESON asked if the money would be considered non-levy revenue and whether it would be distributed to the relevant jurisdictions within the county and if school districts would be included in some of that distribution. **Mr. Duffield** speculated that there would be no strict method for distribution as with timber receipts. He said one of the reasons school districts had not opposed the bill was because of the opportunity to apply to the impact fund. He assumed five counties would get 85 percent of the revenue but that 33 counties had significant oil and gas impacts. There had never been an impact fund to offset any of the negative impacts. The impact fund would help the other counties too.

SEN. ZOOK indicated that mineral leasing money was for schools and the bill dealt with mineral royalties.

SEN. JERGESON surmised that the amendments offered by **SEN. HOLDEN** indicated no impact on the state general fund in the coming biennium, but would become an impact in future bienniums. The dollar amount would show up in the structural deficit for the next session. He asked how that would be managed. **REP. BALES** did not necessarily agree with **SEN. HOLDEN**. He felt that there would be additional monies in the current and future bienniums from energy development. He said there was already some effect on royalty payments from coal as the price had risen and the price of natural gas had come up. He thought there was a good chance that coal bed methane would get under way in the next biennium. Methane companies were forecasting \$250 million in revenue from federal royalties would come back to the state over the next 15 years.

SEN. NELSON asked **Mr. Duffield** about his response to the bill being tabled if it didn't get amended. **Mr. Duffield** advised that when the bill was drafted they tried to make it fair and equitable to all the counties. It was the association's opinion that if the end result could not be obtained, they would want to see the bill tabled.

SEN. BECK contended the committee did not want to table the bill, nor did **SEN. HOLDEN**. He asked about the projected figure for future royalties of \$250 million. **REP. BALES** indicated that would be over a fifteen year period. **SEN. BECK** replied that royalty payments would be \$26 million in the current year and \$20 million in the second year of the biennium. That would be \$46 million for the biennium of which \$4.5 million that would go into the impact fund. It was his understanding the amount could get up to \$40 to \$45 million a year. If that was the case, it would be \$8 or \$9 million in the impact fund. He remembered the Coal Impact Board having too much money. It got to be a political war

trying to decide where the money would go and trying to spend it all. **Mr. Duffield** replied that probably could happen. He said they were open to suggestions.

SEN. COBB advised there would be a debate in committee over whether to have an impact board or not. He also indicated they would not get the 50 percent. He wondered if they would then want the bill killed. **Mr. Duffield** said that was the feeling of the association.

Mr. Daubert suggested that the fair thing to do was an eventual 50/50 split and to make that affordable for the general fund overall. He felt if the bill was passed as **SEN. HOLDEN** was requesting, that the governor would sign it and if **SEN.**

JERGESON's theories about future revenues held true, that could be mended in the next session. The impacts could be addressed fairly and past impacts could be dealt with.

{Tape : 3; Side : A}

Closing by Sponsor:

REP. BALES closed on the bill. He indicated that part of the reason for his amendment was that he felt there would be additional energy development. Counties would be happy if the state appropriated the money back to the counties so they could address impacts. He felt the bill was needed and long past due and he indicated he would work with the committee and the counties to go forward.

-break 10:20-

-reconvene 10:35-

HEARING ON HB 516

Sponsor: **REP. LARRY JENT, HD 29, Bozeman**

Proponents: **Rich Clough, Chief of Operations, Fish, Wildlife, and Parks**

Opponents: **None**

Opening Statement by Sponsor:

REP. LARRY JENT, HD 29, Bozeman, introduced HB 516 which would appropriate funds for the game warden trainee program at MSU-Bozeman and UM-Missoula. He said the bill would use no general fund money. The appropriation would come from the general license fund of Fish, Wildlife, and Parks (FWP). It would give no money to the university system. The entire appropriation

would fund a warden trainee FWP employee position at UM and MSU. The bill would reinstate the system for warden training and procurement where students who were fish and wildlife majors in their senior year served as half-time warden trainee employees for the department. During that time they worked with experienced wardens in the field and at headquarters and performed warden duties. They finished up their senior year and got their degree and if they performed successfully as student trainees, they then went to work at a regional headquarters as a probationary employee and attended the law enforcement academy. They were then eligible for the first available vacancy. Of 92 game wardens in Montana, 41 began their careers in that program. Over the last two bienniums, the program was reduced and then eliminated as FTEs were redirected to other priorities. He indicated the bill should be a funding priority. Over the next biennium, 14 wardens would be eligible for retirement at 20 years service. The goal was to have Montana university graduates get the jobs. He stated there was not a great deal of turnover until retirement took place. He stated there was support from the department and indicated that FWP had less than 1 percent of its revenue from the general fund. It was funded 64 percent on hunting and fishing licenses, 22 percent with federal revenue and 12 percent with other state revenue.

Proponents' Testimony:

Rich Clough, Chief of Operations, Fish, Wildlife, and Parks, testified they had offered testimony in the House as informational witnesses and did not fully support the bill. Their feelings changed after a couple of bills failed to pass that would have provided some enforcement activity. They would support legislative direction. He commented that the funding would only provide personal services dollars. There would be some additional operation dollars required when trainees were brought on which would only be about \$13,000 in additional dollars per year and they wanted see that added.

EXHIBIT (fcs78a12)

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

SEN. JOHNSON asked what would prevent having the program without the bill, since no money from the general fund would be added.

Mr. Clough said the reason was primarily funding. They had redirected those positions and those FTEs in 1999 and 2000 for vacancy savings and utilized the FTEs in positions as

conservation specialists. The intent was to provide a lower grade employee that could handle game damage, hand out materials for game damage, respond to bear complaints and relieve the wardens of those particular duties to free them up to do more law enforcement work. Because the other two programs were not in the funding mix due to the tabling of a couple of bills, the department felt they wanted to fund HB 516 out of the license account. **SEN. JOHNSON** asked since they were not getting any more money, why they required the direction of the legislature. **Mr. Clough** said the appropriation was needed at the FTE level because the FTE did not currently exist and the dollars had not been appropriated for the particular program. **SEN. JOHNSON** asked if that was true for the \$13,000 additional each year. **Mr. Clough** indicated that would have to be appropriated as well. There was not enough in the enforcement budget to redirect that amount out of the operations side. It would take money away from the travel budget and render wardens less effective. **SEN. JOHNSON** asked if there was no account in FWP that would take care of the situation. He asked if it was correct that the bill authorized spending. **Mr. Clough** indicated that was correct. **SEN. JOHNSON** surmised that the reason was that there was not enough authorized in personal services. **Mr. Clough** said that was correct. **SEN. JOHNSON** asked if there was no place to transfer money to personal services from someplace else in FWP. **Mr. Clough** answered they had looked at that in HB 2 in their budget. The budget was tight and when vacancy savings were added in, it was too tight to transfer additional funds into that program. **SEN. JOHNSON** noted they had redirected funds earlier because of higher priorities. If the warden trainees were a priority, he wondered why it had not been thought of earlier. He indicated the bill came late in the session. **Mr. Clough** said the issue came up when they were deliberating what new programs to bring forward in the current session. It did not prioritize that high. At that time, there were bills to increase the boat decal fee, which would have funded an additional four FTEs.

SEN. BILL CRISMORE asked if the department was asking for an additional \$13,000 a year. **Mr. Clough** said that would be needed for the operations side for travel, uniforms and those types of expenses that were not included in personal services.

SEN. JERGESON cited the state constitution about not passing a bill for a local purpose when a general purpose would do. He asked if there would be any objection to striking "Missoula" and "Bozeman" from the bill. The bill would then read "a student from the University of Montana and a student from Montana State University", since they are multi-campus universities. **REP. JENT** explained that in the past there had been one student from Eastern and one from Bozeman because of the regions involved. He

wrote the bill with a minimum of funds so it would have a better chance of passing. He did not think there was a fish and wildlife program anywhere other than UM-Missoula or MSU-Bozeman. A fish and wildlife graduate was needed to qualify for the job. **SEN. JERGESON** contended that if there was a qualified person at Western, that person ought to at least have the opportunity to apply.

Closing by Sponsor:

REP. JENT closed on the bill saying that the bill was a small appropriation with a significant message. He wanted to make sure that every opportunity was given to Montana university system graduates for warden jobs. He indicated that nearly half of the current force of wardens came from the program in the past.

HEARING ON HB 637

Sponsor: CHRISTINE KAUFMANN, HD 53, Helena,

Proponents: Pam Busey, Assistant Attorney General
Sharon Hoff-Brodowy, Montana Catholic Conference
Jim Oppedahl, Executive Director, Montana Board of
Crime Control
Mitzi Grover, Program Coordinator, Community
Juvenile Justice Council

Andy Hunthausen, Restorative Training Network

Betty Whiting, Montana Association of Churches

Opponents:

Opening Statement by Sponsor:

CHRISTINE KAUFMANN, HD 53, Helena, opened on HB 637, an act providing for an Office of Restorative Justice in the Department of Justice. She explained that the current system was based on the principle of retribution. The principle behind restorative justice was to get victims and offenders to talk to one another for the offender to understand the harm created by their actions and for the victim to be able to have a say in what kind of restoration was needed to make them whole. It was her belief that programs based on restorative justice were developed with the community in mind. She indicated it was a growing movement across the country and there were efforts in Montana to use the principles of restorative justice particularly with non-violent offenders to keep them out of the system. She theorized that prison becomes a school for teaching offenders to become better criminals. The bill would fund a person in the Attorney General's office for the Office of Restorative Justice. Initially the bill appropriated \$400,000 to the Board of Crime

Control for grants to communities to set up restorative justice programs. The House saw fit to remove the \$400,000, but to keep the program in place to allow for the application for various private and federal grants and to act as a resource for communities and those in the criminal justice system. The Senate Judiciary Committee put policy language in the bill to direct judges to use restorative justice programs when available. She noted the bill asked for \$50,000 per year to fund the position and asked for favorable consideration of the bill.

Proponents' Testimony:

Pam Busey, Assistant Attorney General, rose in support of HB 637 on behalf of **Mike McGrath, Attorney General**. She advised those were the kinds of principles and programs that were working and were cost effective for the criminal justice system. Some of the programs were the Victim's Advocate Programs and Perpetrator and Victim Mediation. The programs worked in conjunction with the courts and the criminal justice system. Programs were implemented and going in the juvenile justice system. There was a 95 percent collection rate on restitution. In the adult system, restitution was around 33 percent. She asserted that the Attorney General's office was committed to those types of principles and had presented legislation in the current session that had been passed and was signed by the governor to create an Office of Victim's Services. Restoring victims was a high priority and they intended to use the programs together. They had applied with the Board of Crime control for a federal grant to implement the restorative justice program. She asked for support for the bill.

{Tape : 3; Side : B}

Sharon Hoff-Brodowy, Montana Catholic Conference, testified in support of HB 637. She defined crime as injury and violation of people and relationships. She contended justice should focus on repairing and making things right. With the current system of retribution, a crime was against the state and defined by law-breaking and guilt. Justice determined blame and administered pain in a contest between the offender and the state. She asserted that crime was an offense against people. Restorative justice created obligations to make things right. Justice involved the victim, the offender and the community in a search for solutions that promoted repair, reconciliation and assurance. She felt HB 637 was an opportunity to begin a process of restoration and wholeness for victims, communities and offenders. She noted the Catholic Church through its Campaign for Human Development, had begun a new funding program for restoration programs. She urged concurrence with HB 637.

Jim Oppedahl, Executive Director, Montana Board of Crime Control, advised he was also speaking on behalf of **Jane McCall, Chairman, Youth Justice Council.** The board and the Youth Justice Council were in support of the programs and principles of restorative justice. He said the bill would benefit victims and communities and he urged support for the bill.

Mitzi Grover, Program Coordinator, Community Juvenile Justice Council, advised the philosophy of locking people up and throwing away the key was not only not working but was costing taxpayers millions of dollars. She contended that in the three years that she had been working for the Juvenile Justice Council, they had been working with the restorative justice philosophy with first and second time offenders. They had reduced recidivism among youth under eighteen by 85 percent. She noted that when the victim and offender had been able to work out an agreement there had been a 95 percent success rate. She felt the program could also work for those over eighteen. When the victims and offenders get to work together, there can be alternatives to fit the crime. She reasoned that people and money could be saved. She asked for support for the bill.

Andy Hunthausen, Restorative Training Network, and an employee of **Career Training Institute,** advised the restorative justice philosophy was an opportunity for victims and offenders to come face to face and for offenders to take responsibility to repair harm. He described grass root efforts throughout the state to implement the philosophy. Communities would be affected in a positive way and offenders could be reinstated back into the communities.

Betty Whiting, Montana Association of Churches, stated support for community programs as alternatives to prison. Restorative justice provides healing for victims and communities and restoration of offenders. She firmly supported HB 637 and believed the Office of Restorative Justice would bring leadership to the state for the programs and help bring in more money for grants.

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

SEN. ARNIE MOHL asked about the fiscal note and how the office would operate with the appropriation. **REP. KAUFMAN** explained that the \$100,000 was spending authority for the program and \$50,000 each year would help fund the FTE.

SEN. JOHNSON stated he had been associated with the program and noted there had been a definition of restorative justice in the Juvenile Justice Committee. He asked **Mr. Oppedahl** whether the Board of Crime Control gave a number of grants to that organization on a yearly basis. **Mr. Oppedahl** replied there were a number of grants that the Youth Justice Council made to programs around the state for restorative justice projects and that it was an ongoing process. He indicated there were no grants to an office on a state level to coordinate and provide additional information. **SEN. JOHNSON** asked if there was a coordinator in his office. **Mr. Oppedahl** replied that **Audrey Allums** was the staff for the new Justice Council. The primary responsibilities were taking in applications, making evaluations, and doing program monitoring. **SEN. JOHNSON** asked if it was under the authority and part of the responsibility of the Board of Crime Control to see that the Juvenile Justice program was in operation and working. **Mr. Oppedahl** replied it was.

SEN. COBB asked if they didn't get the general fund, if they would still want the bill. **Ms. Busey** replied they would. **SEN. COBB** asked if they didn't get the Office of Restorative Justice, if they would still want Section 4 of the bill, which was the policy. He asked how they would operate without the general fund. **Ms. Busey** didn't know if they would make it work, but they definitely wanted the policies in place. They did consider putting forth a bill requiring judges to use the principles for adult offenders as they do in juvenile justice. They didn't do that because there were not programs for judges to utilize. **SEN. COBB** asked if the bill pertained to adults and **Ms. Busey** confirmed it did. **SEN. COBB** asked **REP. KAUFMAN** about the vote in House Appropriations. **REP. KAUFMAN** explained the bill went to House Judiciary and came out of there unanimously and then went directly to the House floor before coming to the Senate. The speaker decided it was too busy in House Appropriations.

Closing by Sponsor:

REP. KAUFMAN closed on the bill. She advised resources and a coordinating effort at the state level would be helpful in getting restorative justice programs up and moving across the state. The idea of the bill would be to use some of the principles that had been mostly used in the juvenile setting in the adult setting as well. She noted the Senate Judiciary Committee had put language in the bill that mirrored the juvenile restorative justice language

HEARING ON HB 598

Sponsor: REP. JOHN BRUEGGEMAN, HD 74, Polson,

Proponents: Wayne Buchanan, Board of Public Education,

Opponents: Jim Ahrens, President, Montana Hospital
Association
Steve Yeakel
Michele Reinhart, on behalf of Janet Ellis,
Montana Audubon
Jerry Loendorf, Montana Medical Association
Bob Vogel, Montana School Boards Association
Pat Clinch, Montana State Council of Professional
Firefighters
Jim Smith, Montana Sheriffs and Peace Officers
Association
Sammy Butler, Montana Nurses Association
Sharon Hoff-Brodowy, Montana Catholic Conference
Dr. Dick Crofts, Commissioner of Higher Education

Opening Statement by Sponsor:

REP. JOHN BRUEGGEMAN, HD 74, Polson, opened on HB 598, a government accountability act providing for the scheduled termination of state agency programs. He advised there was an amendment from OBPP that he supported, that would change the bill so that sunsets would no longer be applicable. The programs in Section 4 would come up for audit review as scheduled and based on the recommendation of the audit committee, if something were to be terminated or modified, there would be a bill created by the Interim Audit Committee. Before, all the programs in Section 4 would be terminated, with the Audit Committee recommending that they be continued based on the performance audits conducted by the Legislative Audit Division. The bill would be changed so the terminations would no longer apply and everything after Section 8 of the bill would be eliminated. **EXHIBIT(fcs78a13)** He advised the bill was to take a good look at state government and make sure that there was accountability and that all the programs in government were living up to their expectations as they were designed and according to the intent of the legislature. He contended that the Legislative Audit Division would not have a problem completing the audits since performance audits were among the most simple to complete. The idea was to see how money was being spent and whether or not it was a benefit to the people of Montana. Some programs might be curtailed and some expanded, but the intent was to streamline government and make the best use of funds.

Proponents' Testimony:

Wayne Buchanan, Board of Public Education, advised the bill would have deleted the Gifted and Talented program and that the board was in favor of that program and hoped funding would continue. The language in 20-7-904 was probably not necessary and it was probably a good idea to get it out of statute. He felt it was a good bill with good ideas behind it and that the amendments might even make it better.

Opponents' Testimony:

Jim Ahrens, President, Montana Hospital Association, advised he spoke particularly for **Shodair Hospital** and **Jane McCall, Billings Deaconess Clinic**. He said the question to ask was whether the bill was even needed. He felt the Audit Committee should direct the auditor to do the audits on a regular basis. He felt terminating programs would generate unnecessary press. He wondered why anyone would want to eliminate the Fire Safety Prevention Program or Child Abuse programs. In his company, he reported that audits were conducted and the auditor would come back with reports. The board would then make decisions based on finances and policy.

Steve Yeakel, testified on behalf of himself. He declared that he had worked on campaigns and appreciated the value of being able to tell constituents that something was being done to make government in Helena more accountable. He also worked as the Director of the Governor's Office of Budget and Program Planning through one of the most difficult financial periods the state had experienced in decades. He concluded the bill was an overly simplistic attempt to achieve the worthy goal of efficient government. He described the budgeting process where committees had specific oversight over departments and committees arose out of crisis. There were places in HB 2 that asked for reports, accountability, benchmarks, and information to be evaluated by committees. There was recent congressional action to control federal grants. **{Tape : 4; Side : A}** He expressed concern that the programs listed in the bill were found by no more effort than a word search. He asked the committee to think about what would happen if interim work were begun on a project by doing a single keystroke on a computer and deciding that those were the programs that would be evaluated. The whole expanse of state government would not be covered by 71 programs, nor would the most expensive programs or the ones where expenditures might need to be reigned in. He also expressed concern about the impact the bill might have on smaller programs with a small staff. He expressed that he could not get a clear picture from Assumption #4 of the fiscal note with each odd cycle requiring three FTE comprised of two existing employees and one new employee. He questioned what the two FTEs would currently be doing. He felt there was a lot that

could be done to supplement the budget process. He said the bill was not the right approach and that other options should be considered.

Michele Reinhart, on behalf of Janet Ellis, Montana Audubon, advised that some of the language had been deleted in the definition of performance audits in Section 3 so that when performance audits were performed they would not be looking at improving the progress. She presented a list of programs that would be terminated in July 2003. **EXHIBIT (fcs78a14)**

Jerry Loendorf, Montana Medical Association, commented on an unintended consequence of the bill as written. One of the programs scheduled for termination was the Family Residency Training Program, which trained medical school graduates in Montana with the idea they stay in Montana. The effect of the bill would be that participants would have to be told the program would terminate during their training. He advised there could be other unintended consequences.

Bob Vogel, Montana School Boards Association, expressed concern about the Gifted and Talented Program and Agriculture in Montana Schools. They believed that accountability, flexibility and efficiency were good concepts for government. His concern dealt with the Treasure State Endowment Program where termination could negatively impact local governments. Some programs would lose federal funding under the provisions of the bill as it currently stood. Termination of the Unified Investment Program would create constitutional problems. Their other concern dealt with page 22 of the bill, where agencies would be allowed to purchase supplies at places other than through central stores. He hoped the amendments would fix those concerns.

Pat Clinch, Montana State Council of Professional Firefighters, opposed the bill as currently written because of the elimination of the State Fire Prevention Investigation Program. They felt the fiscal note was flawed because it showed there would be no significant local government impact. If the program was eliminated, that would force more investigation and fire prevention programs onto local governments, especially all volunteer fire departments who do not have anyone trained. He acknowledged the proposed amendments but stated they were opposed to the bill as written.

Jim Smith, Montana Sheriffs and Peace Officers Association, advised the Association had brought the bill to his attention. There was a concern about the DARE program, State Fire Prevention Investigation, Highway Traffic Safety, Battered Spouses, and Missing Children programs. If it was a matter of eliminating

programs or taking a good look at base budgets, that had been going on the Human Services Subcommittee for quite a while. He said there were programs eliminated in HB 2. He contended it was hard to eliminate programs, but that the governor's office and the legislature had held the line through the session on the Tobacco Use Prevention dollars and it looked like there would be a 90 percent reduction in that program. He did not know what would happen with the Citizen Review Boards. He thought Displaced Homemakers might have gotten some money back. He said subcommittees looked at base budgets and programs had been eliminated over the years under the existing structures.

Sammy Butler, Montana Nurses Association, opposed the bill as currently written. They were concerned about a variety of programs listed in the bill. In looking at streamlining government, the bill would actually add another layer of government when there was already a process in place. She asked that the bill be tabled.

Sharon Hoff-Brodowy, Montana Catholic Conference, expressed that the conference was interested in the common good and felt there was a role that government should play. Government existed for the people and all legislation should flow from that realization. She had seen the amendments and stated that she only opposed the bill as currently written. Concerns were with the Child Abuse and Neglect Prevention Program, Battered Spouses, and the Montana Initiative for the Abatement of Infant Mortality. They had worked on that program for many years, to make sure that low birth weights did not happen, that mother's would get good pre-natal care, and that high costs would be avoided. She understood the bill, but she agreed with the other speakers that there were pieces already in place to do that. They had no problem with competition and the private sector, but she asked the committee to remember what happened with mental health. She advocated using care when dealing with human service issues. She hoped the bill would be tabled or at least amended.

Informational Witnesses:

Bob Pancich, AARP, expressed a concern regarding the Reverse Annuity Mortgage Program. He termed it an excellent program for low income seniors to draw out equity from their homes to pay for higher prescription or utility bills or just generally the cost of living. The program was targeted at income of 150 percent of poverty or less. He said there was a reverse annuity mortgage program available through Fanny Mae but it was for higher incomes. The program was operated at no cost to the state and the Board of Housing had a pot of money that was a revolving fund

for the program. He said there was no opposition to the program from lenders.

Dick Crofts, Commissioner of Higher Education, noted there were various ways in which their programs were reviewed both internally and externally. He thought the amendments would make HB 598 an effective bill and looked forward to legislative performance audits.

Questions from Committee Members and Responses:

SEN. WATERMAN asked what would be in the bill as amended that couldn't be done by the Audit Committee. **REP. BRUEGGEMAN** said there was no guarantee they would look at the programs. He indicated the whole idea behind the bill was to set up an ongoing process to look at all the programs within state government. The reason it was more relevant now than ever, was in the face of term limits. He cited the work of **SEN. WATERMAN** and **SEN. COBB** in eliminating programs and suggested that came with years of legislative memory and understanding of the different departments. He submitted that there were legislators that put in that kind of effort, but that it was difficult in eight years to get the understanding attained by termed-out legislators. He said the bill was somewhat of a memory tool in order to continue to look at the programs. **SEN. WATERMAN** indicated that one of the programs she worked to eliminate was in her first term. She said it just took some courage and a crisis. She asked about the fiscal note and inquired about the 2 FTEs from the auditor's office and what they were currently doing. **REP. BRUEGGEMAN** repeated that the Audit Division had stated they could account for two of the auditors and would need one more to complete the performance audits every year. Two of the current auditors could make enough time within their current schedule. **SEN. WATERMAN** wondered if they could make time, why those two auditors were on staff. She thought they were busy with requests from the legislature. She commented that might be a HB 2 amendment.

SEN. WATERMAN asked **Bob Pancich** about troublesome language in the bill concerning services offered by state government that were also offered in the private sector. She asked for his response regarding the reverse loan program. **Mr. Pancich** indicated banks did not offer those programs. There was a special financier who would do some. There were ratios that had to be met and interest rates were normally at market. The interest rate was at 5 percent with the program and it was for low income.

SEN. JERGESON asked **John Northey, Legislative Audit Division**, to answer some questions. He advised he had been on the Legislative

Audit Committee for 14 years and that the current performance auditors on staff were currently engaged in performance audits based on a priority system determined by the Legislative Audit Committee. **Mr. Northey** indicated that was correct. There was a running list of potential performance audits from several sources: spinoffs from financial compliance audits, requests from standing legislative committees, requests from individual legislators, requests and referrals by taxpayers, and resolutions for performance audits. Those all go on a list and each biennium, after the end of the legislative session, the Audit Committee would meet, review the list and prioritize the audits. Some would be mandated by resolution. If HB 598 passed, those reviews would become mandated and go to the top of the list. When the priority list was set, available auditors would be assigned and the audits performed over the biennium in that priority order. The bill would displace other audits on the list. In response to **SEN. WATERMAN's** question, he indicated there were not two auditors sitting around doing nothing; the bill would mean they would just be doing something different. There were also the "**COBB**" audits and joint partnership audits with the federal government, and audits at the Department of Transportation at their request that were partially or fully funded by federal dollars. The auditors were kept busy and they tried to generate revenue or cost savings to the general fund. They had looked at the bill and considered doing those audits. He said it was a rebirth of the sunset process of 20 years ago. An agency would be sunset and then re-voted up. They had some familiarity with the process. They intended to take two auditors off of existing work and with one new auditor they could do the job. **SEN. JERGESON** asked if it was the audits that had been prioritized by the committee that may be displaced. **Mr. Northey** advised that was correct and that audits mandated by joint resolution or in a bill such as HB 598 would automatically go to the top of the list. Then it would be up to the Audit Committee to prioritize the rest of the requests below that. Several of the audits proposed in the original bill were audits that had already been conducted in the past biennium and were to be amended out of the bill. **SEN. JERGESON** cited the Public Records Management Program. If that was a priority, that would be foreclosed unless new auditors were put on staff. **Mr. Northey** did not think it would necessarily be foreclosed. He anticipated that if the bill passed in its present form, there would be sufficient staff to do all of the audits contained in the legislation plus a number of other performance audits with the addition on one auditor.

{Tape : 4; Side : B}

SEN. JERGESON asked **REP. BRUEGGEMAN** if the Senate amended the bill if the amendments would be accepted when the bill went back

to the House. **REP. BRUEGGEMAN** said they would. **SEN. JERGESON** asked if there was an amendment added to appropriate three FTEs to do the audits at \$60,000 per FTE, if he would agree to accept the amendment. **REP. BRUEGGEMAN** repeated that in discussions with the Legislative Audit Division, they said they would be able to complete all the audits in the bill with the addition of one auditor as well as all the other audits they were scheduled to do. The scheduling would change, but performance audits would not be missed. He did not think it would severely impact what currently existed in the Audit Division. He felt the one FTE proposed in the bill would be all that would be required. **SEN. JERGESON** commented that the legislative agencies were always very accommodating and that was sometimes taken advantage of by legislators. The agencies would be left with burdens they couldn't meet and criticism when they weren't met.

SEN. ZOOK asked **Mr. Ahrens** what was the last program he could think of that was eliminated because of an audit. **Mr. Ahrens** mentioned an audit from ten years ago under which a program was slowly eliminated. **SEN. ZOOK** thought that was a legislative decision. He noted the Ag Heritage program would be eliminated without funding as well as the CRBs. The eliminations mentioned by **SEN. WATERMAN** were done in subcommittee and were not the result of an audit. **Mr. Ahrens** mentioned that the audit was part of the process. He felt the Audit Committee did good work and they ought to continue to do that. **SEN. ZOOK** noted that managed health care was eliminated but not as a result of an audit.

SEN. NELSON commented that the Audit Committee, of which she was chairman, would have a big responsibility with more and longer meetings. She thought it would become a very powerful committee. She asked **REP. BRUEGGEMAN** for an explanation of his amendment. **REP. BRUEGGEMAN** explained that programs that had been audited in the last few years would be eliminated from the scheduled audits in the bill. **SEN. NELSON** asked if they would be back on the rotation. **REP. BRUEGGEMAN** said they would be eliminated from the list this time. There would always be recommendations to add programs to the list. He said what he previously referred to as the "rolling sunset section" of the bill would become the "rolling audit section". With the amendment, nothing would be terminated. The terminations were put in place originally to give teeth to the bill. It would be expanding the audit function which he considered important. He had no problem with hiring another budget hawk to look at the base.

SEN. WATERMAN asked about the exemption from the statutes that don't allow the passage of legislation that would have a financial impact on local governments without outlining what the funding source would be. She asked if it didn't matter if there

was an impact on local governments. **REP. BRUEGGEMAN** said the idea was that if a local government decided to continue a program or keep its function at the local level, they would have the ability to do so but would not receive state funds.

SEN. WATERMAN asked **Gloria Paladichuk**, to respond. She said the state had given local governments a lot of opportunities to fund programs the state had decided not to fund. That was why the statute was there. **Ms. Paladichuk, Richland Economic Development** and the **City of Glendive** stated she was a former County Treasurer and former County Commissioner from Richland County in Eastern Montana. As she read the section, her concern was that it would be the **DRAKE** amendment in reverse. If the bill was in law, there would be unfunded mandates to the local governments with no recourse.

Closing by Sponsor:

REP. BRUEGGEMAN closed on the bill by saying that the whole idea was to have as many sets of eyes as possible on the legislative process and what was being done in state government. He felt it was important to expand the audit function. Performance audits often discovered inefficiencies or inadequacies in programs. He submitted that one of the programs that was audited was the Micro Business Loan Program. A bill was heard in House Appropriations to expand that program. The audit showed the program was not effective and a waste of state money and that there was a lot of non-compliance. They decided not to fund the program, which would most likely die on the vine without legislative action. Expanding the audit function would serve an increased purpose in the face of term limits. There would not be much time for new legislators to get used to the Appropriations process and the more sets of eyes on states government the better. He said it was the people's money and he wanted to make sure how it was being spent.

CHAIRMAN BOB KEENAN discussed executive action on various bills.

-recess 12:00-

-reconvene 3:40-

EXECUTIVE ACTION ON HB 5

Motion: **SEN. MILLER** moved that **HB 5 BE CONCURRED IN.**

Brian McCullough, Legislative Fiscal Division, handed out and explained a packet of amendments. He said some of the amendments reflected the fact that HB 14 had not moved forward

and three or four amendments were being proposed to deal with that issue. Amendment HB00574.abm **EXHIBIT(fcs78a15)** dealt with language approved in HB 14 that was not also put in HB 5 regarding how the University System and the Department of Administration would work together in the area of broadband communication. The point of the amendment was that if opportunities were created in the future, that the DOA would work with the University for cost efficiency and service.

Motion/Vote: SEN. BEA MCCARTHY moved AMENDMENT HB00574.ABM BE ADOPTED. Motion carried unanimously.

Motion/Vote: SEN. NELSON moved that AMENDMENT HB000573.ABM BE ADOPTED. Motion carried unanimously. **EXHIBIT(fcs78a16)**

SEN. WATERMAN explained that amendment HB000572.abm **EXHIBIT(fcs78a17)** would shift projects contingent on long range building revenues to general fund. There would then be a \$2 million general fund savings if HB 14 did not go forward. The amendment would fund about \$1 million out of that general fund savings.

SEN. JOHNSON asked if she was talking about the projects listed in HB 5. SEN. WATERMAN affirmed they were in Section 2 [5].

SEN. JERGESON asked if the \$900,000 in projects were funded from general fund, then what would happen to the long range building cash that was committed in HB 5 to those projects. Mr.

McCullough explained that the long range building cash that was going to support the projects was derived by shifting how the debt service was paid for by long range building funds in HB 14. With HB 14, long range building would no longer cover the debt service and it would be covered by general fund. SEN. JERGESON asked if the money would then revert to the debt service. Mr. McCullough indicated the action would make use of the general fund that would now not be used in HB 14 because the shift in debt service would not be made.

SEN. ZOOK asked how that would affect the bottom line in the general fund. Mr. McCullough advised that if HB 14 did not pass, \$2.2 million of general fund would be available for the bottom line. The amendment would use about \$1.3 million of the \$2.2 so it would leave \$900,000 to help the bottom line as a result of HB 14 not passing. SEN. ZOOK asked if since HB 14 hadn't passed the House, if it now showed on the status sheet as a \$2.2 million debit. Mr. McCullough did not know. Jon Moe, Legislative Fiscal Division, indicated it should be there.

SEN. WATERMAN asked if the items were one-time expenditures for repairs, roofs, and deferred maintenance and **Mr. McCullough** confirmed they were. **SEN. WATERMAN** noted the projects were part of deferred maintenance and the state would still come out ahead in the general fund if the projects were funded.

Vote: Motion **AMENDMENT HB000572.ABM failed 8-10 with Christiaens, Cobb, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman voting aye.**

Mr. McCullough explained amendment HB000571.abm **EXHIBIT(fcs78a18)** and that **SEN. COREY STAPLETON** was interested in the ability of FWP to shift amongst funding sources to be limited. The limitation would be that they could only shift funds around only within Section 3, not within Section 3 and Section 5.

SEN. JERGESON wished to segregate #2, #3 and #4.

Motion: **SEN. KEENAN** moved that **#1 OF AMENDMENT HB000571.ABM BE ADOPTED.**

SEN. WATERMAN asked **Jane Hamman** what that would do. **Ms. Hammon, OBPP**, expressed a concern with the wording. If it said "within a section" and there was only one fund type within that section, nothing could be transferred if there were additional federal funds and that would save state special. If there was no state special in that section, there could be no savings of state special revenue which was the intent of the language in the beginning.

SEN. BECK asked where the amendment came from. **Mr. Moe** stated that **SEN. STAPLETON** requested the amendment. In terms of limitation within a section, **SEN. STAPLETON** said he had talked to the department and they did not seem to have a problem with that.
{Tape : 5; Side : A}

CHAIRMAN KEENAN withdrew his motion.

Mr. McCullough explained #4 which would strike \$19 million in authority for the university system and reduce that to \$4.5 million to correct a technical error. Instead of "LRBP" the funding should have been "Other Funding Sources". Because of eliminating the construction of new buildings, the issue of 100 percent of all future operations and maintenance costs was irrelevant and # 4 would strike those lines from the bill.

SEN. KEN MILLER advised that #2, #3 and # 4 were technical.

Motion/Vote: SEN. JOHNSON moved that #2, #3, #4 OF AMENDMENT HB000571.ABM BE ADOPTED. Motion carried unanimously.

SEN. WATERMAN asked to go back to HB000572.abm and shift one project to general fund if HB 14 was not approved. She advised the College of Technology in Helena was the fastest growing unit in the system. There was a 38 percent increase in applications for the next year. She cited there were folks from Asarco who had been laid off who would like to be retrained and that could not be accommodated. They had a 53 percent increase in enrollment in the last five years. She understood from Long Range Building that the COT did not get funded in the current cycle because the plans weren't done. If they didn't get the planning money, then the COT would not be funded in two years. They needed enough money to finish their plans to have any hope of being funded in the next cycle. She said the amendment would be contingency on HB 14.

SEN. BECK advised he suggested to SEN. WATERMAN that she do that. In the Long Range Building Committee, they designated enough money to get the engineering design so the COT could come back to the next session with all the plans in order. He stated support for the amendment contingent on HB 14.

CHAIRMAN KEENAN asked if the total for the current stage of planning was \$365,000. SEN. WATERMAN said that was the difference. The other part was earlier in the bill. It would go forward and they would not be able to use it.

SEN. JERGESON asked why it was set up in two different places. Mr. McCullough advised when they were going back through the bill and looking at the issue relative to the Helena COT, the committee was trying to figure out a way to fund it and stay within the long range building funds that were available. That was in conjunction with trying to provide more funds for deferred maintenance and the debt service piece in HB 14. When they changed the debt service in HB 14, the portion of the bill that was the expanded program for deferred maintenance was where the funding was available for the Helena COT to complete the process. They kept it separate just in case something happened to that section in HB 14, because that was how they came up with that money.

SEN. MILLER asked about the design work at MSU-Billings. Mr. McCullough indicated that was in another amendment.

A voice vote was taken with Miller and Zook voting no.

SEN. ZOOK thought they should look at all the amendments together. He thought it was a good project but he was not sure the other weren't too.

Vote: Motion **HB000572.ABM FOR HELENA COT failed 9-9 with Beck, Christiaens, Cobb, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman voting aye.**

CHAIRMAN KEENAN explained that HB 16 was tabled in Long Range and amendment HB000561.abm **EXHIBIT(fcs78a19)** would strike language contingent on its passage.

Motion/Vote: **SEN. BECK** moved that **AMENDMENT HB000561.ABM BE ADOPTED. Motion carried unanimously.**

Mr. McCullough explained amendment HB000565.abm **EXHIBIT(fcs78a20)** would reduce the amount for a planning budget proposal for the university system consisting of \$150,000 in the long range building program plus \$150,000 from educational funds. The request was to reduce the amount from the long range building program by \$100,000 and set aside \$100,000 for design development of classroom and lab space at MSU-COT Billings.

SEN. WATERMAN asked about the effect of deleting \$100,000 from the Master Plan Campuses, University System and what it would do to matching funds. **Tom O'Connell, Administrator, Architecture and Engineering,** guessed the impact would leave the match intact but would not allow them enough money to do much effective master planning on a system-wide basis.

Motion: **SEN. JOHNSON** moved that **HB000565.ABM BE ADOPTED.**

SEN. BECK asked about the purpose of the master plan and why the \$150,000 was there in the first place. **Mr. O'Connell** said that on a system wide basis the university system wanted to look at their facilities and see if they could be utilized better. That would not necessarily mean new buildings, but figuring out the best utilization of classrooms on a per hour basis and looking at ways to improve the delivery of services with existing facilities. It had not been decided where the money would be spent in the overall system. **SEN. BECK** asked about the development of classroom/lab design and how much that project would eventually cost. **Mr. O'Connell** said the amendment would relate to priority #20 in the regents' request that was for an \$5 million addition to the Billings COT. **SEN. BECK** asked how far that was below the funding line. **Mr. O'Connell** said he was not sure where the funding levels stopped for the regents list, but he knew it was down the list of priorities.

SEN. ZOOK asked about the priority level for the Helena COT. **Mr. O'Connell** thought the Helena COT was about priority #18 and right next to the Applied Technology Center at Northern. The planning money, which was not recommended in the initial program, came from \$125,000 that was left over when the Long Range Building Committee finished its work. The \$240,000 was from the funding switch of the bonds that was accomplished in HB 14 for a total of \$365,000.

SEN. WATERMAN noted the ranking for the Helena COT was #1 for new buildings. Everything above it was deferred maintenance. That was actually for the building of the structure. **Mr. O'Connell** said that was correct. The Gaines Hall project at MSU-Bozeman might have been ranked higher, but it was not a new facility. It was a renovation of an existing facility.

SEN. ZOOK asked about the project at Northern. **Mr. O'Connell** said the project at Northern was the Applied Technology Center which was in HB 14 as a 50/50 match with monies available in HB 5 as well. **SEN. ZOOK** asked if that was a new facility and **Mr. O'Connell** confirmed that it was. **SEN. ZOOK** wondered about the priority. **Mr. O'Connell** advised it was #19 on the regents' list and the Helena COT was #18. The Billings proposal was #20.

SEN. MILLER contended that the proposal for the total project was #20. The separate proposal was to develop the design so they could come back next time with a plan. It was his understanding that Billings had run out of classroom space and there was the possibility of some old Vo-tech space being turned into lab space. The \$100,000 would be for a plan to develop a plan for the best cheapest solution to do that.

SEN. MCCARTHY asked if the \$150,000 for the university system was for system-wide planning, wouldn't the project at Billings be part of the system-wide planning and utilization of classrooms. **Mr. O'Connell** said it could be; it wouldn't be precluded from taking place. He did not know what the priorities would be for they system-wide planning. **SEN. MCCARTHY** persisted that there was nothing to say it would not be part of their project if they were going to do utilization of the entire system. **Mr. O'Connell** said it was correct that nothing would preclude the use of that existing planning money for something like that.

SEN. JOHNSON asked for further clarifications about priorities regarding MSU-Billings COT. **Mr. O'Connell** recounted it was #20 on the regents list out of 20. **SEN. JOHNSON** asked if it was correct that the budgeting money done in the university system goes from the institution to the college where the president is located and then to the Commissioner's Office to the regents.

Mr. O'Connell said that was correct. He said the project was also the #20 priority from MSU. **SEN. JOHNSON** said the reason for the way the amendment was written, was that there was \$150,000 designated to the university system for a master plan on campuses. MSU-Billings COT was asking for \$50,000 of that money. It did not take money away from anybody else; it was in the university system. He contended that the Helena COT was the fastest growing COT currently, but the one in Billings was a faster growing unit than that in the past. On that basis, he saw no reason not to give them the planning money to see what they could do with the building they currently have or what they could do if they needed to build another one. It would not take money away from anyone, it would stay in the university system and they could make that decision. **Mr. O'Connell** stated he had been in error and that the #20 priority for MSU was a new technology center at MSU-Billings. The #9 priority for the MSU system was for a COT addition for the MSU-Billings COT.

SEN. MCCARTHY contended the planning was nowhere in the prioritization, just the building. **Mr. O'Connell** said that was correct, the request was for construction.

SEN. BECK asked for clarification. **Mr. O'Connell** restated that in the MSU system of priorities, #9 was a technology addition for the Billings COT for \$5 million. The new technology center for MSU-Eastern at Billings was #20 for \$15 million.

SEN. JERGESON asked what was #4. **Mr. O'Connell** affirmed it was the Applied Technology Center at Northern for \$4 million. **SEN. JERGESON** supported giving some planning money for MSU-Billings and their project. He said in the 1997 session when they approved planning money, they approved \$75,000 for the new building that was approved in 1999 for Western. Last session, \$50,000 was approved for the Northern project for planning money. He didn't know where those numbers came from. He suspected a planning job could be done with whatever number was put in whether \$100,000, \$50,000 or \$75,000. He noted the planning money for the Helena COT would actually develop the architectural design and blueprint so that if that project was approved in the next session, they would let their bid for the construction of the project.

Substitute Motion: **SEN. WATERMAN** made a substitute motion **TO FUND \$240,000 FOR THE COT IN HELENA FOR PLANNING MONEY AND \$100,000 FOR THE MSU-BILLINGS COT FROM THE GENERAL FUND CONTINGENT ON THOSE NOT BEING FUNDED IN HB 14.**

SEN. JOHNSON said the only problem he had with that was the \$100,000 was not in HB 14. **SEN. WATERMAN** explained that the

reason she worded it that way, contingent on HB 14, was so that the Helena COT would be funded in HB 5. MSU COT was not in HB 14 and if not funded in HB 14, it would be funded in HB 5. Both then would get funded. **{Tape : 5; Side B}**

SEN. BECK declared that \$150,000 each year would go into the program in each year of the biennium. That would be \$300,000 over the biennium. He assumed it would be taken out of the Master Plan Campuses, University System. **SEN. WATERMAN** said she was not taking money out of that. **SEN. BECK** said **SEN. STAPLETON's** amendment would take \$100,000 out of that. He assumed it would be done in the first year of the biennium. **SEN. JOHNSON** clarified that the \$150,000 was a biennial appropriation, so it was not \$300,000. He said the current motion took the money from the general fund in the event HB 14 did not pass.

SEN. ZOOK thought HB 14 and HB 5 ought to be considered at the same time.

Vote: Substitute motion **failed 8-10 with Christiaens, Cobb, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman voting aye.**

Vote: Motion **AMENDMENT HB000565.ABM failed 6-12 with Christiaens, Jergeson, Johnson, Miller, Stapleton, and Tester voting aye.**

Motion: **SEN. WATERMAN** moved that **AMENDMENT HB000575.ABM BE ADOPTED. EXHIBIT(fcs78a21)**

Mr. McCullough explained the amendment was for the PBS conversion. The \$1,892,286 in the amendment was the portion that was in HB 14. The intent of the amendment was to authorize the university system, with the approval of the Board of Regents, to borrow the funds from the Board of Investments with the debt service funded by general fund. Contingent on HB 14, general fund would be freed up. The estimated debt service was about \$230,240 per year.

SEN. JERGESON asked if that would constitute the creation of a public debt requiring a two-thirds vote. **Mr. McCullough** said there had been discussion, but he had not seen a clear opinion on that relative to the Board of Investments. **SEN. JERGESON** indicated it did not matter where the money was borrowed from if a public debt was created. He felt a coordinating amendment was needed stating that.

CHAIRMAN KEENAN and **SEN. BECK** agreed that would require a two-thirds vote.

Vote: Motion **AMENDMENT HB000575.ABM failed 11-7 with Christiaens, Jergeson, McCarthy, Nelson, Shea, Tester, and Waterman voting aye.**

Mr. McCullough explained that amendment HB000570.abm **EXHIBIT (fcs78a22)** dealt with the operating and maintenance for the Yellow Bay Multi Media Center and the addition to the UM Law Building. **SEN. WATERMAN** asked if that was just clarification of what Long Range Building had done.

CHAIRMAN KEENAN asked if the Yellow Bay project would be built with raised funds but the university would provide maintenance. **Mr. O'Connell** recalled that in the subcommittee, it was suggested there would be an endowment for the operations and maintenance for the Yellow Bay facility. **SEN. WATERMAN** indicated it was the same for the law school. **SEN. ZOOK** assumed it would not raise tuition. **CHAIRMAN KEENAN** said the amendment was consistent with that.

SEN. JERGESON argued that Yellow Bay would be a classroom/laboratory component of UM that would provide services as all regular classrooms do. Students from all over Montana were enrolled in that program from which they earned credits. He did not think the operations and maintenance should be the responsibility of the university just because they were getting non-state funds to build the building. He thought the operations and maintenance should be incorporated in university budgets.

SEN. WATERMAN stated she had not been in favor of requiring buildings to pay for operations and maintenance because it would mean they would have to raise another million or two for an endowment to pay the utility bills in the future. She indicated clarified that the operations and maintenance would be for the addition.

SEN. ZOOK thought it should be stipulate that it would be paid by the UM-Missoula endowment fund. He thought those words should be added so it would not raise tuition.

SEN. MCCARTHY was under the impression that Yellow Bay was raising the money separate from the university endowment fund. She would not want to mix those funds together. **SEN. WATERMAN** clarified the law school was classroom space.

Mr. McCullough noted that the professor from Yellow Bay testified at the committee meeting that an endowment plan would fund

operations and maintenance. **CHAIRMAN KEENAN** clarified that was **Dr. Stanford**.

SEN. MCCARTHY continued by stating that would be a separate endowment for Yellow Bay. She questioned if private funds would be required to maintain and clean all classroom buildings in the university system and if that would be the direction the policy was going. **SEN. BECK** did not think that was the case. He said it was a separate unit with a separate endowment and separate maintenance from that endowment. He thought the amendment was just for clarification in HB 5.

CHAIRMAN KEENAN asked if that at Yellow Bay, the funds were being raised to build the building, but the operations and maintenance were in the university system. **SEN. BECK** and **SEN. MCCARTHY** advised no. **CHAIRMAN KEENAN** then clarified that they would pay the maintenance and that #1 and #2 would clarify the bill. **SEN. BECK** said #1 concerned Yellow Bay and #2 was involved with the law school at the university.

SEN. JERGESON said he supported #2 in that it clarified language already in the bill. He did not support the university paying for operations and maintenance on fully functional buildings that provided classroom and laboratory experiences for students and let them earn decent degrees. He felt operations and maintenance were an integral part of the state's function of educating people in the State of Montana. There was no increased burden with most of the facilities, but better education.

SEN. JOHNSON recalled the Honor's College in Missoula was built that way.

Substitute Motion: **SEN. JOHNSON** made a substitute motion **AFTER THE WORD "ALL" TO INSERT "CONSTANT CONSTRUCTION, OPERATING AND MAINTENANCE EXPENSES OF THE YELLOW BAY MULTI MEDIA CENTER ARE TO BE PAID BY THE CENTER NOT BY THE UNIVERSITY OF MONTANA"**.

He said they were talking about an endowment and raising money to build the facility themselves.

SEN. MCCARTHY commented the facility would ultimately be owned by the university. **SEN. JOHNSON** said that was true of every facility built in that manner.

SEN. JOHNSON reiterated his amendment: all the costs of construction, operating and maintenance expenses of the Yellow Bay Media Center were to be paid by the center. **CHAIRMAN KEENAN** noted that was the intent of **Dr. Stanford**.

Vote: Substitute motion **carried unanimously.**

Motion: SEN. MILLER moved that **AMENDMENT HB000570.ABM #2 BE ADOPTED.**

SEN. BECK clarified it was just a technical amendment.

Vote: Motion **HB000570.ABM #2 carried unanimously.**

Mr. McCullough explained amendment HB000564.abm **EXHIBIT(fcs78a23)** was a clean-up amendment that the Forestry/Journalism Addition, UM-Missoula would be only for Forestry.

Motion/Vote: SEN. JERGESON moved that **HB000564.ABM BE ADOPTED.**
Motion carried unanimously.

Motion: SEN. JOHNSON made a motion **TO CHANGE AMENDMENT HB000565.ABM #1 STRIKING \$150,000 AND INSERTING \$100,000 AND ON #2 STRIKING \$100,000 AND INSERTING \$50,000 FOR MSU-BILLINGS DESIGN.**

Substitute Motion/Vote: SEN. WATERMAN made a substitute motion **TO ALSO INCLUDE \$240,000 FOR THE COLLEGE OF TECHNOLOGY IN HELENA.**
Substitute motion failed 2-16 with McCarthy and Waterman voting aye.

SEN. BECK asked for clarification on Page two, line 20 and if that would be \$150,000 each year of the biennium. He asked if it was federal match. **CHAIRMAN KEENAN** clarified that it was \$150,000 from long range building and \$150,000 from other funding sources. **SEN. BECK** asked if \$50,000 in federal grants would be lost if the amendment was adopted. **Mr. McCullough** indicated it was not necessarily federal match. There were two different categories of funding in the bill. The other funds were funds the university would come up with. It could be federal funds, donations, or grants. Auxiliary was stricken which clarified that the funding would not come from any fees on students. He said it was not a required match scenario. **SEN. BECK** asked if it was federal funds, if it might have a matching requirement. **Dr. Dick Crofts, Commissioner of Higher Education,** advised he knew of no federal grant application.

SEN. WATERMAN commented that if the amendment passed, it would mean the College of Technology in Billings would come in with their plan in the next session and once again Helena COT would not have their plan because it wouldn't be funded.

SEN. JERGESON contended that Helena COT had \$125,000 without question. He supported the motion. He did not think \$50,000 would put Billings COT ahead of Helena COT. He stated he had tried to help **SEN. WATERMAN** get the additional \$240,000, but she had the \$125,000. He thought the \$50,000 was appropriate for MSU-Billings.

SEN. JOHNSON surmised that HB 14 would come across and take care of the problem. He advised his amendment would not take money away from the other project or take general fund.

{Tape : 6; Side : A}

Vote: Motion carried 13-5 with Cobb, Keenan, McCarthy, Shea, and Waterman voting no.

Motion/Vote: **SEN. MILLER** moved that HB 5 BE CONCURRED IN AS AMENDED. Motion carried 16-2 with Cobb and Mohl voting no.

EXECUTIVE ACTION ON HB 140

Motion: **SEN. WATERMAN** moved that HB 140 BE CONCURRED IN.

Motion: **SEN. WATERMAN** moved that AMENDMENT HB014002.AJM BE ADOPTED. **EXHIBIT**(fcs78a24)

SEN. WATERMAN cited the concern of **SEN. JOHNSON** regarding the FTE for OPI. She explained the amendment would transfer the responsibility to the Montana guaranteed student loan program. She also included an appropriation that was originally in the bill. She advised that rural areas were hurt by shortages and the bill would help alleviate that.

Vote: Motion HB014002.AJM failed 6-12 with Christiaens, Jergeson, McCarthy, Shea, Tester, and Waterman voting aye.

Motion/Vote: **SEN. JERGESON** moved TO SEGREGATE #2-#5 OF AMENDMENT HB014002.AJM. Motion carried unanimously.

SEN. WATERMAN saw no reason to pass the bill without an appropriation.

Motion/Vote: **SEN. WATERMAN** moved that HB 140 BE TABLED. Motion passed 17-1 with Jergeson voting no.

EXECUTIVE ACTION ON HB 516

Motion: **SEN. BILL TASH** moved that HB 516 BE CONCURRED IN.

Motion: SEN. JERGESON moved TO STRIKE "UM-MISSOULA" AND INSERT "UNIVERSITY OF MONTANA" AND TO STRIKE "MSU-BOZEMAN" AND INSERT "MONTANA STATE UNIVERSITY".

Vote: Motion TO AMEND carried unanimously.

Motion: SEN. JERGESON moved \$13,000 PER YEAR FOR OPERATION AND BENEFITS.

SEN. JOHNSON advised that in the discussion of the bill, FWP claimed they could not find \$32,000 a year for the program. He found it hard to believe with the FWP budget that they could not finance that out of their current budget. CHAIRMAN KEENAN suggested their general license account. SEN. TASH said it was his understanding it would be funded from the general license fund, including the \$13,000.

SEN. MCCARTHY advised that was how the bill was originally written, but now \$13,000 was needed for each year of the biennium from general fund. CHAIRMAN KEENAN clarified it was the general license fund.

SEN. JERGESON said it would not reallocate within an approved budget, it would increase the approved budget but there was revenue available. SEN. BECK agreed. He understood it to be spending authority.

Vote: Motion to AMEND carried unanimously.

Motion/Vote: SEN. NELSON moved that HB 516 BE CONCURRED IN AS AMENDED. Motion passed 17-1 with Wells voting no.

EXECUTIVE ACTION ON HB 577

CHAIRMAN KEENAN advised the bill included a \$4 lien fee for information technology at the Department of Justice.

Motion: SEN. WATERMAN moved that HB 577 BE CONCURRED IN.

SEN. JOHNSON expressed frustration at putting \$1.1 million into the gambling situation. He said they had been working on the system for the last five sessions and it was to be running in September of 1999. He would not vote for the bill because of that. He thought the gambling fraternity needed to come forward. It was a half a billion dollar business in the State of Montana and the state takes \$30 million in taxes out of it. About \$20 million of that goes to counties and cities. He thought that was far too little and they had never had an increase in their taxes.

He thought it unfair for those buying automobiles to pay an additional \$4.

SEN. BECK advised that was not all that was in the bill. The bigger portion of the bill was for the Motor Vehicle Division. He cited the outdated computer system for the title bureau in Deer Lodge. The title system would be expedited. He would not oppose amending the Gambling Division out of the bill on the floor, but he would support the Motor Vehicle Division.

Jane Hamman, OBPP, clarified that on page two of the bill, Subsection 2 was for \$4.5 million for the financing of the information technology system for motor vehicles titles. That would be paid for with the \$4 fee. Page 2, Subsection 3, line 3 was where the \$1.12 million for gambling was, but language was stricken that said the loan was payable from the DOJ annual appropriation.

SEN. TESTER explained the bill was a DOJ bill but was in two sections. The increase on the lien would go exclusively to the Motor Vehicle Division. The money appropriated in the base budget for the Gambling Division would be used to pay off the loans. None of the lien fee would go to the Gambling Division.

SEN. JOHNSON asked **Ms. Hammond** if she remembered how much had been spent trying to get the system going in the Gambling Division. **Ms. Hammond** said she did not, but that there was about \$386,000 per year in the base budget that was continuing and would be continuing for an additional two years extension beyond the plan that was originally presented to the legislature. That was because more people had signed up. By borrowing the money, each community would have to be visited only once. **SEN. JOHNSON** asked if the machine operators would pay part. **Ms. Hammond** believed \$450 dollars would be paid by the operators in addition to the amount from the general fund. **SEN. JOHNSON** asked if they would get a tax credit.

SEN. JERGESON advised a legislative audit from several years ago indicated the problem with the old system of trying to account for the tax on gambling revenue. Without a system in place there was an invitation for numbers to be wrong.

SEN. TESTER mentioned that **Rich Miller, Lobbyist**, stated there was a tremendous demand to get the machines in right away. That was the reason to accelerate the program.

Vote: Motion that **HB 577 BE CONCURRED IN** carried 14-4 with **Johnson, Miller, Mohl, and Wells** voting no.

EXECUTIVE ACTION ON HB 598

Motion: SEN. COBB moved that HB 598 BE CONCURRED IN.

Motion: SEN. COBB moved that AMENDMENT HB059803.AJM BE ADOPTED.
EXHIBIT(fcs78a25)

SEN. MCCARTHY requested an explanation of the technical notes that indicated that county governments would lose \$8.3 million in FY 2008, \$8.3 million in FY 2009 and more in future years.

SEN. COBB advised that in the original version of the bill, certain programs would be terminated. With the amendments, the programs would just be reviewed.

Vote: Motion AMENDMENT HB059803.AJM carried unanimously.

Motion: SEN. JERGESON moved TO AMEND HB 598 BY ADDING AN APPROPRIATION SECTION TO THE LEGISLATIVE AUDITOR FOR THREE FTE.

SEN. JERGESON said other legislators would want the priority list of audits done that currently were chosen. He believed that SEN. CHRIS CHRISTIAENS had probably asked for the audit that was done that generated the data for his proposal and that of SEN. LORENTS GROSFIELD on fourth time DUIs. That kind of performance audit was not on the list in the bill and even if it was, it might not come up on the list at an appropriate time to deal with a problem in a particular agency. All resources could be tied up with those on the list and not getting to those that legislators identified each session. He was suggesting that rather than asking the legislative staff to stop providing the kinds of services they were already providing the legislature, that three FTE be added to do all the reviews.

SEN. ZOOK responded that John Northey, Legislative Auditor's Office, did not see a need for additional FTE. He advised waiting a session to see if auditors were over-worked and unable to accomplish the reviews before adding additional FTEs.

SEN. WATERMAN stated she was not in favor of adding FTEs, but she heard Mr. Northey say not that they could do the reviews in addition but would do them instead of some of the audits that were requested by legislators. That was her concern with the bill. She felt the performance audits requested by legislators and the Audit Committee were requested because of a concern. Sometimes federal funds were used for those audits. The reviews in the bill would take priority, even though no one had any problems with the Reverse Annuity Loan program. She restated

that she was not in favor of adding FTE and would recommend that the additional FTE in the bill not be included in HB 2.

SEN. NELSON advised she was the current chair of the Legislative Audit Committee and that **Scott Seacat, Legislative Auditor**, wanted the committee to understand that the department was taking a neutral position on the bill. He also indicated it would be a stretch to get the audits done with current staff.

SEN. ZOOK thought there was a process if a legislator asked for an audit. He assumed they could say no. **SEN. WATERMAN** agreed if it was for a legislative request, but the reviews in the bill would be mandated in statute. She asserted that those mandated in statute would take priority over those requested. The Audit Committee in the past had gotten a list and had prioritized those requests. Now the arbitrary list would be at the top followed by requests from legislators.

SEN. TESTER advised he was also on the Legislative Audit Committee and clarified they would rank requests provided there were auditors to do it. The statutory audits would come first.

SEN. JERGESON did not expect his motion would pass but he wanted to make the point that if the bill passed extra auditors would be needed for legislative requested audits that might be current and appropriate. The money would need to be put in to do it all the performance audits or he felt the bill should not pass. There was no discretion given to the Audit Committee or each successive legislature. He felt that was a mistake.

{Tape : 6; Side B}

Vote: Motion **TO AMEND** carried 9-8 with Beck, Cobb, Crismore, Mohl, Tash, Waterman, Wells, and Zook voting no.

Motion: **SEN. WATERMAN** moved that **AMENDMENT HB059802.AJM BE ADOPTED. EXHIBIT(fcs78a26)**

SEN. WATERMAN advised the amendment would eliminate the Reverse Annuity Mortgage Program from the list of reviews. Section 1 would be deleted.

SEN. MILLER did not care if the amendments passed or not but thought if they did, the bill would not be needed. He favored the part where everything was terminated because that made it be looked at. If it would be just an audit bill, then some support would be needed on the Legislative Audit Committee to do that. To eliminate pet projects would be to lose the intent of the bill.

SEN. JOHNSON thought the sponsor had suggested that amendments put on the bill had taken the termination off. **REP. BRUEGGEMAN** said the amendment recommended by the OBPP would take off the termination and then it was an audit bill to some extent. He advised that although he was not one want to add FTE, the Legislative Audit Division had encountered some pretty heavy cuts.

CHAIRMAN KEENAN concluded that, considering that **Lieutenant Governor Ohs** carried the bill in the last session, that the Office of Budget and Program Planning amended it, and the programs being audited were executive branch programs, he didn't know why that should be done with legislative staff. He felt if they wanted to audit and make cuts in their programs, the lieutenant governor could take that on.

Substitute Motion/Vote: **SEN. MCCARTHY** made a substitute motion that **HB 598 BE TABLED**. Substitute motion carried 11-6 with Beck, Cobb, Mohl, Shea, Wells, and Zook voting no.

EXECUTIVE ACTION ON HB 610

CHAIRMAN KEENAN advised HB 610, sponsored by **REP. DAVE KASTEN**, would reduce the allocation to TSEP and increase the allocation to the permanent fund.

Motion: **SEN. COBB** moved that **HB 610 BE CONCURRED IN**.

SEN. MILLER understood the amendments but did not see a need for the bill. After talking to **REP. KASTEN** he was still not convinced the bill was needed and he would vote against the bill or to table. He advised he was always opposed to the Treasure State Endowment because it took forever for any money to be there. Now there was money going into the fund so that actual projects could be done. There were bridges funded with the amendment but there were other bridges that were hazardous that needed to be taken care of. The next legislature could do exactly what the bill as amended would do.

Motion/Vote: **SEN. SHEA** moved that **HB 610 BE TABLED**. Motion carried 10-8 with Cobb, Crismore, Jergeson, Keenan, Mohl, Stapleton, Wells, and Zook voting no.

EXECUTIVE ACTION ON HB 637

Motion: **SEN. COBB** moved that **HB 637 BE CONCURRED IN**.

SEN. COBB wondered about taking the general fund out. **CHAIRMAN KEENAN** commented on the bill that it was a local effort that was being done and being done well. He understood there were matches available, but he expressed some confusion.

Substitute Motion: **SEN. COBB** made a substitute motion **TO TAKE THE FTE AND THE GENERAL FUND OUT.**

SEN. MILLER said the bill would allow the same thing to go on for adults as with what was currently going on with juveniles. **SEN. COBB** indicated that Section 4 would set correctional and sentencing policy.

SEN. JOHNSON advised taking the general fund out and letting them do whatever else they wanted with the bill. **CHAIRMAN KEENAN** asked if they would take existing funds within the department, match them and start the program. **SEN. JOHNSON** indicated that was the case.

SEN. MCCARTHY asked if **SEN. COBB** would take Section 5 out of the bill. **SEN. COBB** advised Section 5 would stay, but general fund would come out. If they wanted to spend federal money on getting grants out they could. The FTE would be taken out.

Vote: Substitute motion **TO AMEND HB 637** carried unanimously.

Motion: **SEN. WATERMAN** moved that **HB 637 BE CONCURRED IN AS AMENDED.**

Substitute Motion/Vote: **SEN. MOHL** made a substitute motion that **HB 637 BE TABLED.** Substitute motion failed 6-11 with Beck, Crismore, Miller, Mohl, Wells, and Zook voting aye.

SEN. COBB recounted that the appropriation to fund one full FTE, was \$50,000 each year. Everything else was still in the bill: the policy, the office, and federal or state money if they could find it.

Vote: Motion that **HB 637 BE CONCURRED IN AS AMENDED** carried 10-7 with Beck, Crismore, Keenan, Miller, Mohl, Tash, and Zook voting no.

EXECUTIVE ACTION ON HB 610

Motion: **SEN. JERGSON** moved **TO RECONSIDER COMMITTEE ACTION ON HB 610.**

SEN. JERGESON explained that when the bill was heard in the House, there were arguments about whether it required a three-quarter vote to pass. Before any action last session, the allocation of coal tax revenues going into the Treasure State Endowment Program was at 25 percent. The other money going into the coal tax trust fund was going into the permanent fund. When HB 260 was passed, the money going into the permanent fund was shut off and the amount going into TSEP was raised to 37.5 percent. There would be a smaller amount of money going into the whole trust itself. Trying to keep TSEP whole was the reason it was changed from 25 to 37.5 percent. HB 260 was found unconstitutional but the reallocation within the coal tax trust fund was not. The interest from the permanent fund goes into the general fund. He indicated that with the court ruling and not reversing the entirety of it, TSEP was now growing much faster than it was ever envisioned to grow. There was no growth in the permanent fund from which general fund was drawn. He felt the growth in general fund would be important as a revenue source to deal with structural deficits.

SEN. BECK advised the bill came out of the Long Range Subcommittee. He said **SEN. JERGESON** was exactly right. He said some of the grants had already been issued in the current session. He said the fund would grow quite rapidly, but it was money they had offset due to the Supreme Court's decision to overturn what was being done with the coal tax trust fund. They didn't want to hurt the Treasure State Endowment. He felt it was a good bill and he hoped the committee would reconsider its action.

Vote: Motion **TO RECONSIDER** carried 15-2 with Waterman and Wells voting no.

Motion: **SEN. JERGESON** moved that **HB 610 BE CONCURRED IN.**

SEN. JOHNSON felt **SEN. JERGESON** had made the issue clear. He favored passing the bill.

SEN. MILLER thought the bill should die. The next legislature would decide if they wanted to reallocate the funds to TSEP rather than allowing the Treasure State Endowment Fund to grow faster. He felt it was a policy decision. All the bill did was tell the next legislature what they would do.

SEN. BECK said the fund grew slow to start with. As more money comes into the fund, it grows quite rapidly. Only part of the interest was being used out of the Treasure State Endowment which was continuing to grow. Only one or two grants did not get funded in the current session and they were very low on the

priority list. If there was too much money going in, it would not even be able to be spent. The bill would correct the oversight from the Supreme Court decision.

{Tape : 7; Side : A}

Ms. Hamman advised that when they based the governor's budget for the next legislative session upon current law. If HB 610 was passed, the Treasure State Endowment recommendations that came in would be based on the 25 percent. If the bill did not pass, the same thing would happen in the next session that happened in the current session. It would be based on the 37.5 percent and there would be a list of projects at the end. When the next legislature tried to change it to 25 percent that would come into House Appropriations the same way they did this time. They would say they had already been considered and had a hearing therefore the bill could not be passed and you would have to make it effective the following biennium.

SEN. MILLER said that was right and that was a good thing.

SEN. MCCARTHY asked if there was some way to fix it permanently with 25 percent going into the fund. **SEN. JERGESON** said it would have to be amended constitutionally. The policy choice was whether to keep current law and accelerate the unanticipated growth of TSEP and cap growth in revenues to the general fund or vice versa to keep TSEP growing at the rate that it had always been planned to grow with the 25 percent inflow and continue to have growth in the permanent fund which generated additional revenue in the general fund. He supported the idea to continue to grow the general fund.

SEN. BECK advised it was a direct hit to the general fund if the bill did not pass.

SEN. WATERMAN cited the expensive need for roads, infrastructure and bridges and asked **Ms. Hamman** if the higher amount could be spent. **Ms. Hamman** advised roads were not included under TSEP for projects. Water and sewer and bridges were. She indicated that TSEP was still growing significantly at about \$14 million a biennium. It was at about \$2.5 million a few sessions ago. As it gets bigger, it would continue to accelerate faster. She recognized there was some demand that was not being met, but it was a couple of million dollars to the general fund for next session. **SEN. WATERMAN** commented there was great need to return money to communities and for economic development.

SEN. TESTER said he was going to vote in favor of the bill, but wanted to point out that **Director Swysgood** not only appeared as a

proponent, but it was with his effort that it appeared before the committee. The reason for that was the hit on the general fund.

SEN. BECK noted it would be general fund for the next year.

Vote: Motion that **HB 610 BE CONCURRED IN** passed 14-3 with Miller, Waterman, and Wells voting no.

EXECUTIVE ACTION ON HB 273

Motion: **SEN. MOHL** moved **TO RECONSIDER COMMITTEE ACTION ON HB 273.**

SEN. JOHNSON explained it was \$3.5 million coming out of TANF funds. He thought there was no reason not to do the program. He pointed out that half a million was taken out that was going to come from the Housing Authority.

Vote: Motion **TO RECONSIDER** carried 15-2 with Miller and Wells voting no.

Motion: **SEN. WATERMAN** moved that **HB 273 BE CONCURRED IN AS AMENDED.**

SEN. WATERMAN said the bill had been amended to reflect the reduction that was made because of the earned income.

SEN. MILLER said they had flexibility without passing the bill. They could look at other priorities. He favored the bill being tabled.

SEN. JERGESON thought the bill would promote home ownership and the values that brings. He said there was flexibility with subsidized rents. He thought society was better off with folks owning property so they would know what property rights and defense was all about.

Vote: Motion that **HB 273 BE CONCURRED IN AS AMENDED** carried 12-6 with Beck, Crismore, Keenan, Miller, Stapleton, and Wells voting no.

ADJOURNMENT

Adjournment: 6:40 P.M.

SEN. BOB KEENAN, Chairman

PRUDENCE GILDROY, Secretary

BK/PG

EXHIBIT (fcs78aad)